

Department of Veterans Affairs

§ 17.215

(ii) Will meet the requirements of these regulations by the end of the Federal fiscal year, and

(iii) The Secretary has accorded the highest priority under paragraph (c) of this section.

(3) An application deferred in accordance with paragraph (e)(1) of this section shall be accorded priority in any subsequent Federal fiscal year ahead of applications that had not been approved before the first day of the Federal fiscal year in which the deferred application was first approved.

(Authority: 38 U.S.C. 8135(b)(5))

(g) The amount of a grant under these regulations shall be paid to the applicant or, if designated by the applicant, the State home for which such project is being developed or any other agency or instrumentality of the applicant. Funds paid for an approved project will be used solely for carrying out such project as so approved.

(Authority: 38 U.S.C. 8135(d)(1))

(h) Any amendment of any application whether or not approved under paragraph (d) of this section will be subject to review and approval pursuant to the regulations concerning grants to States for construction of State home facilities in the same manner as an original application.

(Authority: 38 U.S.C. 8135(e))

(i) Any amendment of any application whether or not approved under paragraph (c) of this section will be subject to review and approval pursuant to the regulations concerning grants to States for construction of State home facilities in the same manner as an original application.

(Authority: 38 U.S.C. 8135(e))

(Information collection requirements contained in § 17.213 were approved by the Office of Management and Budget under control number 2900-0502)

[45 FR 38357, June 9, 1980, as amended at 47 FR 27859, June 28, 1982; 48 FR 1490, Jan. 13, 1983; 52 FR 23826, June 25, 1987; 54 FR 34983, Aug. 23, 1989; 56 FR 20354, May 3, 1991. Redesignated and amended at 61 FR 21966, 21968, May 13, 1996]

§ 17.214 Disallowance of a grant application and notice of a right to hearing.

(a) Before disapproving an application submitted under § 17.213, the Secretary shall notify the applicant of the opportunity for a hearing. The notice shall state:

(1) That the application's disapproval has been proposed;

(2) The basis for the proposed disapproval;

(3) That a request for a hearing should be received in writing by the Secretary within 40 days from the date of this notice;

(4) That failure of an applicant to request a hearing as provided for by this section or to appear at a hearing for which a date has been set shall be deemed a waiver of the opportunity for a hearing.

(b) If an applicant requests a hearing after the expiration of the 40-day period, the Secretary may accept the request.

(c) An applicant who requests a hearing under the procedures specified by this section shall be notified of the time and place for the hearing. If the time or place set is inconvenient for the applicant, the Secretary may change the time or place for the hearing.

(d) The Secretary shall conduct the hearing. The hearing will be informal. The rules of evidence will not be followed. Witnesses shall testify under oath or affirmation. A record or transcript of the hearing shall be made. The Secretary who conducts the hearing may exclude from consideration irrelevant, immaterial, or unduly repetitious evidence or testimony.

(Authority: 38 U.S.C. 8135(c))

[52 FR 23828, June 25, 1987. Redesignated and amended at 61 FR 21966, 21968, May 13, 1996]

§ 17.215 Recapture provisions.

(a) Except as provided in paragraph (b) of this section, if within 20 years after completion of any project with respect to which a grant has been made under the regulations concerning grants to States for construction or acquisition of State home facilities, a facility constructed or acquired as part of such project ceases to be operated by

a State, a State home, or an agency or instrumentality of a State principally for furnishing domiciliary, nursing home or hospital care to veterans, the United States shall be entitled to recover from the State which was the recipient of the grant or from the then owner of such construction 65 percent of the current value of such facility (but in no event an amount greater than the amount of assistance provided for such under these regulations), as determined by agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated.

(Authority: 38 U.S.C. 8136)

(b) In the case of a grant where the Department of Veterans Affairs would provide between 50 and 65 percent of the estimated cost of expansion, remodeling, or alteration of an existing State Home facility recognized by the Department of Veterans Affairs in accordance with §17.190, the Secretary may at the time of the grant provide for the following recovery periods associated with the following grant amounts.

Grant amount (dollars in thousands)	Recovery period (in years)
0-250	7
251-500	8
501-750	9
751-1,000	10
1,001-1,250	11
1,251-1,500	12
1,501-1,750	13
1,751-2,000	14
2,001-2,250	15
2,251-2,500	16
2,501-2,750	17
2,751-3,000	18
Over 3,000	20

(Authority: 38 U.S.C. 8136)

If the magnitude of the Department of Veterans Affairs contribution is below 50 percent of the estimated cost of the expansion, remodeling, or alteration of an existing State home facility recognized by the Department of Veterans Affairs in accordance with §17.190, the Secretary may authorize a recovery period between 7 and 20 years depending on the grant amount involved and the magnitude of the project.

[52 FR 23828, June 25, 1987. Redesignated and amended at 61 FR 21966, 21968, May 13, 1996]

§ 17.216 General program requirements for construction and acquisition of and equipment for State home facilities.

(a) *Introduction.* (1) The general program requirements set forth in this section have been established to guide the State agencies and their architects in preparing drawings, specifications, cost estimates, and the equipment list for the grant application.

(2) States shall apply the Uniform Federal Accessibility Standards (UFAS) (24 CFR part 40, appendix A), during the design and construction of State home projects. UFAS standards establish requirements for facility accessibility by physically handicapped persons for Federal and Federally-funded facilities and were jointly developed by the General Services Administration, the Department of Housing and Urban Development, the Department of Defense, and the United States Postal Service, under the authority of sections 2, 3, 4, and 4a of the Architectural Barriers Act of 1968, as amended, Public Law 90-480, 42 U.S.C. 4151-4157.

(3) States must comply with these requirements where they exceed any National, State, or local codes. If the State or local codes exceed these general requirements, compliance with the more stringent standard is required.

(4) The space allotted to the various services (i.e., medical, nursing, dietary, and the like) will depend upon the requirements of the facility. Some services that are required by these regulations to be in separate spaces or rooms, may be combined if the result will not compromise safety and medical and nursing practices. The Department of Veterans Affairs shall accept a design and waive minimum requirements where a service or services will have minimal renovations and remain in their present locations.

(Authority: 38 U.S.C. 8134(2))

(b) *General conditions of the contract for construction.* The applicant may use the general conditions of the contract for construction of the American Institute of Architects (AIA) or other general conditions as required by the State in awarding contracts for State home grant projects. (See 37 CFR part 43 for contract requirements.)